

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
NORTHWESTERN DIVISION

Lily Cassandra Alphonsis,

Petitioner,

-vs-

United States of America, and US
Department of Homeland Security - US
Border Patrol,

Respondents.

Case No. 4:14-cv-154

**ORDER ADOPTING REPORT AND
RECOMMENDATION AND
DENYING MOTION TO
TRANSFER VENUE**

The court has received a Report and Recommendation from the Honorable Alice R. Senechal, United States Magistrate Judge, pursuant to 28 U.S.C. § 636, recommending that Petitioner Lily Cassandra Alphonsis' application to proceed *in forma pauperis* be denied and her petition for habeas relief be dismissed without prejudice.¹ Alphonsis has not objected to the Report and Recommendation but has responded with a request to transfer her petition to the United States District Court for the Central District of California.²

Upon a review of the magistrate judge's Report and Recommendation and the entire file, this court finds the magistrate judge's analysis and recommendations are appropriate. The charges brought in this court against Alphonsis have been dismissed.³ The information before the court as of February 18, 2015, indicated that there was no immigration hold on Alphonsis, but there was an active warrant in California. The court is unaware of any basis that prohibits Alphonsis from leaving North Dakota. Moreover,

¹ Doc. #11.

² Doc. #12.

³ United States v. Aiphonsis-Majdoub, Case No. 4:14-cr-143 (D.N.D.).

because Alphonsis appears to be seeking relief related to potential civil rights violations and/or her citizenship status, she should file a new action in California where the purported circumstances and events giving rise to her claims arose.

For the foregoing reasons, the court **ADOPTS** the Report and Recommendation in its entirety. Alphonsis' motion to proceed *in forma pauperis* is **DENIED**; her petition for habeas relief is **DISMISSED without prejudice**; and her motion to transfer venue is **DENIED**. Because dismissal of the petition is not debatable, reasonably subject to a different outcome on appeal, or otherwise deserving of further proceedings, this court will not issue a certificate of appealability. Further, any appeal taken would be frivolous and not in good faith and thus may not be taken *in forma pauperis*.

IT IS SO ORDERED.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated this 1st day of May, 2015.

/s/ Ralph R. Erickson
Ralph R. Erickson, Chief Judge
United States District Court